

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Digital Output Protection Technology and Recording Method Certifications)	
)	
Magicgate Type-R for Secure Video Recording for Hi-MD Hardware)	MB Docket No. 04-55
)	
Magicgate Type-R for Secure Video Recording for Memory Stick PRO Software)	MB Docket No. 04-56
)	
Magicgate Type-R for Secure Video Recording for Hi-MD Software)	MB Docket No. 04-57
)	
Magicgate Type-R for Secure Video Recording for Memory Stick PRO Hardware)	MB Docket No. 04-58

**RESPONSE TO THE APPLICATION OF SONY CORPORATION
DIGITAL TRANSMISSION LICENSING ADMINISTRATOR LLC FOR
INTERIM AUTHORIZATION OF MAGICGATE BY THE MOTION PICTURE
ASSOCIATION OF AMERICA, INC., METRO-GOLDWYN-MAYER STUDIOS INC.,
PARAMOUNT PICTURES CORPORATION, SONY PICTURES ENTERTAINMENT
INC., TWENTIETH CENTURY FOX FILM CORPORATION, UNIVERSAL CITY
STUDIOS LLLP, THE WALT DISNEY COMPANY, AND WARNER BROS.
ENTERTAINMENT INC.**

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April 6, 2004

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The Motion Picture Association of America, Inc., Metro-Goldwyn-Mayer Studios Inc., Paramount Pictures Corporation, Sony Pictures Entertainment Inc., Twentieth Century Fox Film Corporation, Universal City Studios LLLP, The Walt Disney Company, and Warner Bros. Entertainment Inc. (collectively the “MPAA Parties”) hereby file this response to the application of Sony Corporation (“Sony”) to have MagicGate¹ be approved on an interim basis as an

¹ Sony has submitted four separate applications for the following variations of the MagicGate technology: MagicGate Type-R for Secure Video Recording for Hi-MD Hardware as an Authorized Recording Technology

Authorized Recording Technology for Marked and Unscreened Content (the “Application”). The MPAA Parties express support for the Application upon the expectation that Sony will respond and/or clarify the issues raised below in its reply filing.

We note at the outset that this proceeding, and the Commission’s review of the content protection technologies, related functionalities, and licenses submitted in this proceeding, are concerned only with whether the proposal meets the interim requirements the Commission identified for the protection of digital broadcast television content. This response, therefore, is based on the understanding that if the Commission decides to authorize MagicGate on an interim basis for use in protecting Marked and Unscreened Content, that authorization extends only to the use of MagicGate in the Broadcast Flag application.² In addition, we have reserved comment on the bulk of licensing terms, trusting that the marketplace negotiations of the agreements will produce acceptable business terms.

With the above caveat noted, with respect to authorization of MagicGate on an interim basis, MPAA supports the Application, subject to the comments below. In particular, the MPAA applauds and notes the work of Sony to develop MagicGate as an example how the Broadcast Flag regulation is already stimulating competitive technological innovation in content protection. Technologies offering effective content protection will continue to pave the way for consumers to watch movies in high quality digital picture and sound in new, innovative ways.

(“MG-R(SVR) for Hi-MD” for hardware), MagicGate Type-R for Secure Video Recording for Hi-MD Software as an Authorized Recording Technology (“MG-R(SVR) for Hi-MD” for software), MagicGate Type-R for Secure Video Recording for Memory Stick PRO Hardware as an Authorized Recording Technology (“MG-R(SVR) for Memory Stick PRO” for hardware), and MagicGate Type-R for Secure Video Recording for Memory Stick PRO Software as an Authorized Recording Technology (“MG-R(SVR) for Memory Stick PRO” for software). Because of the similarity of the technologies and the licensing terms submitted, the MPAA hereby submits consolidated comments on all four Applications.

² For example, the interim authorization of a content protection technology would not determine in any way whether that technology appropriately protects content with copy restrictions delivered through high-definition analog outputs, which was not the subject of the Broadcast Flag proceeding.

Further, as the MPAA has explained elsewhere, any content protection technology must limit redistribution to the device's Local Environment through the use of reasonable and affirmative constraints. MagicGate places reasonable and affirmative constraints on the scope of redistribution of Marked and Unscreened Content because it cryptographically binds the content to the Hi-MD and Memory Stick Pro media³ and then authorizes only protected digital outputs during playback that provide effective redistribution control.

The MPAA Parties request that Sony respond to and/or clarify the following issues in its reply filing in a satisfactory manner to facilitate approval of MagicGate technology by the Commission in this proceeding.

I. MagicGate Must Assert Upstream Controls over Downstream HDCP Functions.

Sony has identified HDCP as a potential protected digital output downstream from Sony's content protection technology. Due to the unique operational aspects of the HDCP technology, if MagicGate's content protection technology authorizes HDCP as a protected downstream output, any Covered Demodulator Product using MagicGate technology must assert upstream control of the flow of Marked and Unscreened Content being sent to an HDCP function. This is because the HDCP function can not assert control over the output of (or prevent the delivery of) Marked and Unscreened Content to an HDCP device, but can only signal upstream to the MagicGate content protection technology when the HDCP function is actively

³ Without prejudice to the legal rights of content owners, the Broadcast Flag system does not constrain the movement of removable physical recordings of Marked or Unscreened Content. That is due both to the limits of technology and, most importantly, to the tedium, cost, delay, "one-to-one" nature, and related practical factors that severely limit the occasions and impact of physical transfer. The extraordinary ease, immediacy, extensibility, and both direct and aggregate "one-to-many" breadth of digital *re-transmission* is another matter entirely, as clear and distinct as the difference between mailing a VHS or other copy of a movie to a friend and *broadcasting* the same movie to an audience or group through open or closed circuit. As indicated above, the proposed secure recording technology and accompanying license include reasonable and effective restrictions on such retransmission from the recordings.

engaged and able to deliver protected content. The HDCP technology then relies on the upstream content protection technology to turn off the flow of content when it receives this message from the HDCP function.

In order to ensure the security of a system with multiple devices and in particular the effectiveness of any revocation process, if HDCP is an authorized downstream output from MagicGate technology, as part of the MagicGate licensing terms, Sony should require adopters manufacturing a Covered Demodulator product to ensure that it asserts this upstream control function.

For example, adding the following language to the compliance rules could accomplish this:

A Covered Demodulator Product may pass Marked or Unscreened Content to an HDCP protected DVI or HDMI output, only if such Covered Demodulator Product (a) reads the received HDCP System Renewability Message, if present, and passes it to the HDCP Source function as a System Renewability Message, and (b) verifies that the HDCP Source Function is engaged and able to deliver Marked and Unscreened Content in protected form, which means (i) HDCP encryption is operational on such output, (ii) processing of the valid received System Renewability Message associated with such content, if any, has occurred as defined in the HDCP Specification and (iii) there is no HDCP Display Device or Repeater on such output whose Key Selection Vector is in such System Renewability Message. Capitalized terms used in the foregoing but not otherwise defined in the Specifications or the License shall have the meaning set forth in the HDCP Specification and HDCP License Agreement offered by Digital Content Protection, LLC.

II. Sony Should Clarify That MagicGate Imposes No Obligations on Content Providers, Broadcasters, Consumers, or Others

The MagicGate technology could become one of many technologies included in the Broadcast Flag system. All approved technologies will receive broadcast content marked with the Broadcast Flag and may be invoked or “triggered” in response to the Broadcast Flag in

various devices, such as set top boxes and digital video recorders. Content providers, broadcasters, and others currently cannot direct which approved technologies may receive broadcast content marked with the Broadcast Flag or which approved technologies may get triggered by the Broadcast Flag. Because content providers, broadcasters, and others exercise no direct control over the actual use of MagicGate (or any of the other potential Broadcast Flag technologies), Sony should clarify that broadcasters, content providers, and others who do not take a license to the MagicGate technology but who mark or broadcast content with a Broadcast Flag that triggers the MagicGate technology are not subject to any obligations to Sony or its affiliates, including but not limited to intellectual property licensing obligations. Furthermore, Sony should certify, as a condition of interim authorization, that no consumer transmitting or receiving content marked with the Broadcast Flag signal will incur any claim of obligation from Sony or its affiliates.

III. Sony Should Clarify that Robustness Requirements Are Present for both Software and Hardware Implementations

As a matter of clarification, the Application provided by Sony appears to have included Robustness requirements (Exhibit D) for its software implementations but not for the hardware implementations. We believe that this was an oversight, and simply request clarification that the same Robustness requirements apply for all implementations proposed.

IV. Sony Should Affirm That All 300MB HiMD Recorder Devices and Software Are Subject to Revocation

The MPAA seeks clarification specifically on the 300MB Hi-MD devices to ensure that once such old device encounters a new Enabling Key Block (EKB) that lists the old device as revoked, that the old device will not then be able in the future to record content onto 300MB Hi-MD disks using the old default EKB installed on the old device at the time of manufacture.

V. The Terms of the MagicGate License Agreement Must Apply to Sony and Its Affiliates

An owner of a technology or a member of a technology consortium may have the ability under the consortium's rules to use the technology in its own products free of obligations or without taking a license. Alternatively, the member may control sufficient intellectual property to license decryption in downstream products independent of the consortium. Or a member may manufacture its own devices and not license the technology. Sony should clarify that for any use of the MagicGate technology, Sony, its affiliates and members or any consortium to which Sony contributes MagicGate intellectual property are obligated to comply with the compliance and robustness rules of the MagicGate license agreement equivalently to any other Adopter licensee of the MagicGate technology. Section 12.1 of the MagicGate adopter licenses addresses this issue with respect to Sony and its subsidiaries, and we would request that Sony modify and clarify to addresses the broader concerns herein.

VI. The Means of Handling Revocation Lists Should Be Addressed

In order to effectuate revocation, it is necessary that a standardized means for delivering revocation information in the ATSC transport stream is developed and that FCC approval of any protected digital output and secure recording technology include obligations that Covered Demodulator Products and downstream devices properly receive, preserve, process, and convey downstream, as appropriate, such information. In its reply, Sony should explain how it will deal with this issue.

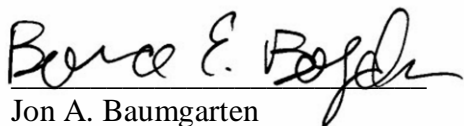
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We look forward to Sony's satisfactory responses on these issues, and to the Commission's ultimate authorization of MagicGate on an interim basis for use in protecting digital broadcast content under the Broadcast Flag regulation.

Respectfully submitted,

THE MOTION PICTURE ASSOCIATION OF AMERICA, INC.
METRO-GOLDWYN-MAYER STUDIOS INC.
PARAMOUNT PICTURES CORPORATION
SONY PICTURES ENTERTAINMENT INC.
TWENTIETH CENTURY FOX FILM CORPORATION
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By:

A handwritten signature in black ink, appearing to read "Bruce E. Boyden", written over a horizontal line.

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